

Remarks

This Application has been carefully reviewed in light of the Office Action mailed October 10, 2003. Applicants appreciate the Examiner's consideration of the Application and the allowance of Claims 23-56. Applicants believe all pending claims are allowable and respectfully provide these remarks. Applicants respectfully request reconsideration and allowance of all pending claims.

The Examiner rejects Claims 1-22 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,275,575 to Wu ("*Wu*") in view of U.S. Patent 5,483,588 to Eaton, et al. ("*Eaton*"). Applicants respectfully disagree.

Even assuming for the sake of argument that *Wu* could be properly combined with *Eaton* as the Examiner suggests, Applicants respectfully submit that patentable distinctions exist between Claims 1-22 and the proposed *Wu-Eaton* combination. However, in light of Applicants' attached Declaration Pursuant to 37 C.F.R. § 1.131, swearing behind the effective filing date of *Wu* (January 12, 2000), Applicants respectfully submit that *Wu* may not be relied upon to reject at least Claims 1-22.

According to 37 C.F.R. § 1.131(a), "[w]hen any claim of an application . . . is rejected, the inventor of the subject matter of the rejected claim . . . may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based." The showing of facts shall be of such, in character and weight, as to establish reduction to practice prior to the effective filing date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. *See* 37 C.F.R. § 1.131(b). Additionally, an "Applicant may overcome a 35 U.S.C. 103 rejection based on a combination of references by showing completion of the invention by applicant prior to the effective date of any of the references" M.P.E.P. § 715.02. When reviewing a 37 C.F.R. § 1.131 affidavit or declaration, the Examiner must consider all of the evidence presented in its entirety, including the affidavits or declarations and all accompanying exhibits. *See* M.P.E.P. § 715.07.

Applicants' attached Declaration Pursuant to 37 C.F.R. § 1.131 and supporting Exhibits establish that Applicants conceived and reduced to practice at least Claims 1-22 prior to the January 12, 2000 effective filing date of *Wu*. Thus, *Wu* may not be relied upon to reject at least Claims 1-22. Certainly, *Eaton* alone fails to disclose, teach, or suggest certain limitations recited in independent Claims 1 and 12 and their respective dependent claims.

For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claims 1 and 12, together with all claims that depend from Claims 1 and 12.

Conclusion

Applicants have made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all pending claims.

If the Examiner believes a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Christopher W. Kennerly, Attorney for Applicants, at the Examiner's convenience at (214) 953-6812.

Applicants hereby take an Extension of Time for responding to the Examiner's Office Action dated July 17, 2003 for one (1) month from October 17, 2003 to November 17, 2003. A check in an amount of \$55.00 made payable to the Commissioner of Patents and Trademarks is attached hereto. The Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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Date: 11/17/03

Attachments:

Declaration Pursuant to 37 C.F.R. § 1.131 with Exhibits A-E